



MAIL

Paper No. 9

SEP 02 2003

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Rodney G. Adams)
Application No.: 09/357,250)
Filed: July 20, 1999)
For: SYSTEM AND METHOD FOR)
TRANSFERRING INFORMATION IN)
A HYPERTEXT TRANSFER)
PROTOCOL BASED SYSTEM)

**DECISION ON PETITION
UNDER 37 C.F.R. § 1.181 TO
WITHDRAW HOLDING OF
ABANDONMENT**

This is a decision on the petition filed July 15, 2003 under 37 CFR § 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to file a timely response to the Office action of mail date November 5, 2002. A Notice of Abandonment has not been mailed.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office may presume that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received.

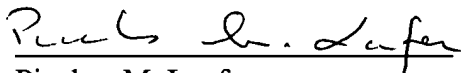
M.P.E.P. § 711.03(c), section II states:

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

In support of the petition, Applicant's attorney, David L. McCombs, attests that the Office action was not received, and that upon conducting a search, no record of said Office action was found in the Attorney's file for this application. Petitioner supplies a copy of the docket records for Attorney Docket No. 26162.4 (which corresponds to the docket number indicated on papers filed in Application Serial No. 09/357,250) and states that this is where the record would have been entered in the firm's docketing system had the Office action been received and docketed. The docket record shows no entry reflecting receipt of the Office communication mailed November 5, 2002. Petitioner supplies additional evidence in the form of a declaration by Staff Administrator Suzanne M. Kiefer describing the docketing and tracking system of the firm and attesting to the nonreceipt of the aforementioned Office communication as evidenced by the lack of any corresponding entry in the docket records.

Petitioner has met the criteria of set out in MPEP 711.03(c) for establishing failure to receive an Office action. The petition is **GRANTED**. The Notice of Abandonment is **WITHDRAWN**.

The application file is being forwarded to the Technology Center support staff. The Office action of November 5, 2002 will be remailed to the address noted above with the three month Shortened Statutory Period restarted to run from the date of the remailing.



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